

# **Notice of Allowability**

Application No.

09/745,297

Examiner

Steven P. Sax

Applicant(s)

KUDUKOLI ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/29/05 and 7/22/05.
2. ☒ The allowed claim(s) is/are 1,2 and 5-81.
3. ☒ The drawings filed on 20 December 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## **Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 7/22/05.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### Reasons for Allowance

1. The amendment filed 6/29/05 has been entered.
2. An examiner's amendment to the record appears below. This was made to correct for 101 issues by changing those independent claims directed to methods to recite that the method is executing on a computer, and those directed to memory mediums to recite that the medium is a memory with program instructions stored in it. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

In independent claim 1 line 3 at the end, please delete "," and insert "on a computer;"

In independent claim 29 line 3 at the end, please delete "," and insert "on a computer;"

In independent claim 30 line 1 between "program" and ", the method" please insert "on a computer"

In independent claim 44 line 1 between "program" and ", the method" please insert "on a computer"

In independent claim 45 line 1 between "program" and ", the method" please insert "on a computer"

In independent claim 46 line 2 between "comprising" and "program" please insert "a physical memory storage medium having stored thereon"

In independent claim 56 line 1 between "comprising" and "program" please insert "a physical memory storage medium having stored thereon"

3. Authorization for this examiner's amendment was given in a telephone interview with Mr. Mark Williams on 7/22/05.

4. The following is an examiner's statement of reasons for allowance: The amendment filed 6/29/05 especially in view of applicant's remarks, as well as the Examiner's Amendment 7/22/05, place the application into condition for allowance as follows: 1) The amendment 6/29/05 by specifying in the independent claims that programmatically modifying the graphical program is performed automatically, without any user specifying the modification. 2) The Examiner's Amendment 7/22/05 corrects 101 issues by rewording the independent claims to recite that the method is executing on a computer, and that the medium is a physical storage memory containing the program instructions. The claims are directed to a system and method and medium for executing a program that in turn generates a graphical program which comprises a flow diagram of interconnected nodes that visually indicate the functionality of the graphical program. The graphical program is executable to perform that functionality according to the flow diagram. Furthermore, this graphical program generation (GPG) program

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receives information specifying functionality of the graphical program, and automatically modifies the graphical program to implement the desired functionality, without any user input. Thus information is received regarding the desired functionality, and the interconnected nodes of the flow diagram of the graphical program are automatically modified to reflect and to be capable to execute accordingly the desired new functionality. The features as combined are not set forth in the prior art of record. Also, double patenting issues do not apply because the claims of the present invention distinguish over the claims of any of the inventor's or assignee's prior patents in the manner in which the present invention is directed to the modification of the graphical program.

Independent claims: 1 amended—method as described above. 29 amended—the method which modifies twice. 30 amended—the method which creates the program and modifies one or more times. 44 amended—the method which creates the program and modifies one or more times producing modified program information. 45 amended—the method receiving first program information and modifying it. 46 amended—memory medium like claim 1 amended. 56 amended—memory medium like claim 30 amended. 65 amended—system like claim 1 amended. 73 amended—system like claim 30 amended.

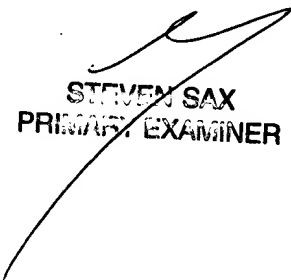
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven P. Sax whose telephone number is (571) 272-4072. The examiner can normally be reached on Monday thru Friday, 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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STEVEN SAX  
PRIMARY EXAMINER